

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK COLSTON,

Plaintiff,

v.

KEVIN LINDSEY, and AMY BERTKE,

Defendants.

Case No. 06-11001

Honorable Nancy G. Edmunds

**ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION IN PART AND REJECTING IN PART [36]**

This matter comes before the Court on the Magistrate Judge's July 24, 2006 Report and Recommendation [36]. Being fully advised in the premises and having reviewed the record and the pleadings, including Plaintiff's Objections, the Court hereby ACCEPTS IN PART and ADOPTS the result of the Magistrate Judge's Report and Recommendation, but does so on different grounds, thereby REJECTING IN PART.

The Report and Recommendation considered the merits of Plaintiff's claims and found them to be insufficient as a matter of law. This Court declines to address the merits of this case, finding that the Settlement Agreement and Release dated March 18, 2005 (Def.'s Mot. for Summ. J., Ex. 1.) between Plaintiff and the Michigan Department of Corrections bars Plaintiff's instant lawsuit in its entirety.¹

¹On December 7, 2005, the Hon. Richard A. Enslen, Western District of Michigan, held that Plaintiff did not sign the Settlement Agreement under duress, and the agreement was therefore enforceable.

Defendant's motion for summary judgment [16] is GRANTED and this case is DISMISSED.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: October 4, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 4, 2006, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager